

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

IN RE:	X	
	X	
MANUEL FERNANDO GOMEZ	X	CASE NO. 13-53378-CAG
KRISTIN BETH RIZZUTO GOMEZ	X	
	X	
DEBTORS	X	CHAPTER 13

**DEBTORS' MOTION TO MODIFY PLAN IN RESPONSE TO TRUSTEE'S MOTION  
TO DISMISS CASE AND FIFTH REQUEST FOR ADDITIONAL ATTORNEYS FEES**

TO THE HONORABLE CRAIG A. GARGOTTA, JUDGE,  
UNITED STATES BANKRUPTCY COURT:

NOW COME, Manuel Fernando Gomez, and wife, Kristin Beth Rizzuto Gomez, Debtors in the above-styled and numbered Chapter 13 bankruptcy case, and file this their Motion to Modify Plan in Response to Trustee's Motion to Dismiss Case and Fifth Request For Additional Attorneys Fees, and in support thereof would respectfully show the Court the following:

1. IF YOU OBJECT TO THE DEBTORS' MOTION TO MODIFY PLAN IN RESPONSE TO TRUSTEE'S MOTION TO DISMISS CASE AND FIFTH REQUEST FOR ADDITIONAL ATTORNEYS FEES, YOU MUST FILE A WRITTEN OBJECTION WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT WITHIN TWENTY-ONE DAYS FROM THE DATE OF SERVICE HEREOF. IF AN OBJECTION IS FILED, THEN A HEARING ON THIS MOTION TO MODIFY PLAN IN RESPONSE TO TRUSTEE'S MOTION TO DISMISS WILL BE HELD AT THE SAME TIME AS THE MOTION TO DISMISS ON AUGUST 23, 2018

AT 9:30 A.M. FAILURE TO FILE AN OBJECTION AND/OR APPEAR AT THE HEARING COULD RESULT IN THE MODIFICATION BEING GRANTED.

2. On December 12, 2013, Manuel Fernando Gomez and Kristin Beth Rizzuto Gomez (hereinafter called "Debtors") filed their voluntary Petition for Relief under Chapter 13 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Western District of Texas, San Antonio Division. The Order Confirming Amended Chapter 13 Plan was entered on March 20, 2014.

3. On July 13, 2018, the Chapter 13 Trustee filed a Motion to Dismiss Case. The Trustee's Motion to Dismiss based upon the Debtors are in arrears in the amount of \$1,880.00 through July, 2018.

4. The Debtors have prepared and will file their updated Schedules I and J. They are attached hereto.

5. The Debtors have filed their 2017 Income Tax Return and provided a copy to the Chapter 13 Trustee. The Debtors have provided the Trustee with proof of expenses they need to pay from the tax refund and are waiting to hear from the Trustee (Stipulation).

6. The Debtors are in arrears in their Chapter 13 Plan payments in the amount of \$1,880.00 through July 31, 2018. The Debtors' monthly Plan payments are in the amount of \$620.00. The Debtors propose to lower their base through July 31, 2018 by the amount of \$1,880.00, and lowering their monthly Plan payment to the amount of \$100.00 beginning in August, 2018 for the balance of their Chapter 13 Plan (based upon their Amended Schedules I and J).

7. The Debtors believe that the Motion to Modify proposed herein is in the best interest of their creditors and has been proposed in good faith.

8. The Debtors' Plan will remain a base Plan with an approximate payout to unsecured creditors in the reduced amount of approximate one percent (1%). The Plan term is not extended herein and remains less than sixty (60) months from confirmation.

9. The following Orders have been entered by the Court allowing additional attorneys fees and expenses:

a.	Order Allowing Compensation of Fees and Reimbursement Of Expenses (7/1/14)	\$ 350.00
b.	Order Granting Motion to Modify in Response to Trustee's Motion to Dismiss (12/16/14)	500.00
c.	Order Allowing Compensation of Fees and Reimbursement Of Expenses (10/20/15)	Denied
d.	Order Granting Motion to Modify in Response to Trustee's Motion to Dismiss (5/26/17)	500.00
Total Additional Fees and Expenses		<u>\$1,850.00</u>

10. The base fee in this case is the amount of \$3,200.00.

11. Counsel for the Debtors has incurred attorney's fees and costs in the amount of \$523.47 for the preparation and filing of this Motion to Modify Plan in Response to the Trustee's Motion to Dismiss, and hereby requests that said attorney's fees be paid in full through the Debtor's Chapter 13 Plan.

12. A copy of the Order uploaded with this Motion is attached hereto.

WHEREFORE, PREMISES CONSIDERED, Debtors request that the Court approve the Debtors' Motion to Modify Plan in Response to Trustee's Motion to Dismiss Case, and for such other and further relief to which they may show themselves entitled.

Date: August 2, 2018.



WILLIAM R. DAVIS, JR.  
State Bar No. 05565500  
LANGLEY & BANACK, INC.  
745 E. Mulberry, Suite 900  
San Antonio, TX 78212  
(210) 736-6600

Attorneys for Debtors

**CERTIFICATE OF SERVICE**

I hereby certify that on August 2, 2018, a true and correct copy of the above and foregoing instrument was mailed, first class, postage prepaid to the attached notice list.



WILLIAM R. DAVIS, JR.

07/16/18	1981498	DEF	Davis, William R.	0.10	\$ 325	<del>\$ 325.50</del> Review of Trustee's Motion to dismiss; calendar; request response.
07/18/18	1982380	DEF	Davis, William R.	0.10	\$ 325	<del>\$ 325.50</del> Telephone conversation with client regarding case update.
07/18/18	1982390	DEF	Davis, William R.	0.30	\$ 325	<del>\$ 97.50</del> Review of case; update budget; review of escrow new payment; pull ad valorem taxes.
07/19/18	1982874	DEF	Davis, William R.	0.30	\$ 325	<del>\$ 97.50</del> Work on amended budget; letter to mortgage company regarding escrow.
07/23/18	1984327	DEF	Davis, William R.	0.10	\$ 325	<del>\$ 325.50</del> Review of amended budget.
07/23/18	1984400	DEF	Davis, William R.	0.10	\$ 325	<del>\$ 325.50</del> Review of mortgage statement.
07/30/18	1986502	DEF	Davis, William R.	0.10	\$ 325	<del>\$ 325.50</del> E-mail with client regarding case update.
					<del>\$ 455.00</del>	TOTAL UNBILLED TIME

Expenses

Photocopies (6 pages at \$.20/copy x 41 creditors) =	\$49.20
Postage (41 creditors x \$.47) =	<u>19.27</u>
	\$68.47

Label Matrix for local noticing  
0542-5  
Case 13-53378-cag  
Western District of Texas  
San Antonio  
Thu Aug 2 15:36:25 CDT 2018

American InfoSource LP as agent for  
Verizon  
PO Box 248838  
Oklahoma City, OK 73124-8838

Bexar County Tax Assessor  
P.O. Box 839950  
San Antonio, TX 78283-3950

CACH, LLC  
PO Box 10587  
Greenville SC 29603-0587

Citibank, NA  
P.P.O. Box 34119  
Memphis, TN 38184-0119

Fay Servicing, LLC  
3000 Kallway Dr., Ste. 150  
Carrollton, TX 75006-3357

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Kyle E. Neill  
Kyle E. Neill, P.C.  
11550 W. IH-10, Suite 287  
San Antonio, TX 78230-1063

Merrick Bank  
P.O. Box 30537  
Tampa, FL 33630-3537

Quantum3 Group, LLC  
as Agent for MOMA Funding, LLC  
P.O. Box 788  
Kirkland, WA 98083-0788

U.S. BANKRUPTCY COURT  
615 E. HOUSTON STREET, ROOM 597  
SAN ANTONIO, TX 78205-2055

BSI Financial Services  
1425 Greenway Drive, Ste. 400  
Irving, TX 75038-2480

Bill Me Later  
P.O. Box 105658  
Atlanta, GA 30348-5658

Carson Smithfield, LLC  
P.O. Box 9216  
Old Bethpage, NY 11804-9016

(p)DELL FINANCIAL SERVICES  
P O BOX 81577  
AUSTIN TX 78708-1577

Fay Servicing, LLC  
Bankruptcy Department  
939 W. North Avenue Suite 680  
Chicago, Illinois 60642-1231

JC Penny  
GECRB  
P.O. Box 960090  
Orlando, FL 32896-0090

Langley & Banack, Inc.  
745 E. Mulberry, 9th Floor  
San Antonio, TX 78212-3141

(p)PORTFOLIO RECOVERY ASSOCIATES LLC  
PO BOX 41067  
NORFOLK VA 23541-1067

Recovery Management Systems Corporation  
25 S.E. 2nd Avenue, Suite 1120  
Miami, FL 33131-1605

US Bank Trust National Association as Trust  
c/o BSI Financial Services  
1425 Greenway Drive, Ste 400  
Irving, TX 75038-2480

Bexar County  
c/o Don Stecker  
711 Navarro, Suite 300  
San Antonio, TX 78205-1749

Braundera Family YMCA  
9606 Bandera Rd.  
San Antonio, TX 78250-5632

Chase  
P.O. Box 15123  
Wilmington, DE 19850-5123

FORD MOTOR CREDIT COMPANY, LLC  
C/O HOSTO BUCHAN LAW FIRM, PLLC  
P.O. BOX 3397  
LITTLE ROCK, AR 72203-3397

(p)FORD MOTOR CREDIT COMPANY  
P O BOX 62180  
COLORADO SPRINGS CO 80962-2180

Kay Jewelers  
P.O. Box 3680  
Akron, OH 44309-3680

MERRICK BANK  
Resurgent Capital Services  
PO Box 10368  
Greenville, SC 29603-0368

Quantum3 Group LLC as agent for  
MOMA Funding LLC  
PO Box 788  
Kirkland, WA 98083-0788

Regional Adjustment Bureau  
CCSI  
P.O. Box 341119  
Memphis, TN 38184

Sam's Club  
GECRB  
P.O. Box 530942  
Atlanta, GA 30353-0942

Security Service F.C.U.  
P.O. Box 27397  
San Antonio, TX 78227-0397

Security Service Federal Credit Union  
c/o William P. Weaver Jr.  
512 Heimer Rd.  
San Antonio, Texas 78232-5108

Security Service Fedral Credit Union  
c/o William P. Weaver Jr.  
512 Heimer Rd.  
San Antonio, Texas 78232-5108

(p)CITIBANK  
PO BOX 790034  
ST LOUIS MO 63179-0034

Southwest Research Center FCU  
7215 Culebra  
San Antonio, TX 78251-1305

Southwest Research Center Federal Credit Uni  
c/o Syl Mauro, Attorney  
12451 Starcrest Drive  
San Antonio, TX 78216-2992

Syl Mauro  
12451 Starcrest Drive  
San Antonio, TX 78216-2988

THE WINSTON SCHOOL SAN ANTONIO  
C/O KYLE E. NEILL, P.C.  
11550 W. IH-10, SUITE 287  
SAN ANTONIO, TEXAS 78230-1063

The Winston School San Antonio  
8565 Ewing Halsell Dr.  
San Antonio, TX 78229-3718

U.S. Attorney  
601 NW Loop 410, Suite 600  
San Antonio, TX 78216-5512

U.S. Attorney General of  
Main Justice Bldg., #5111  
10th & Constitutional Ave., NW  
Washington, DC 20530-0001

United States Trustee - SA12  
US Trustee's Office  
615 E Houston, Suite 533  
PO Box 1539  
San Antonio, TX 78295-1539

Verizon Wireless  
P.O. Box 660108  
Dallas, TX 75266-0108

Wells Fargo Bank, N.A.  
Attn: BK Dept - MAC #T7416-023  
4101 Wiseman Blvd  
San Antonio, TX 78251-4200

Wells Fargo Home Mortgage  
P.O. Box 105693  
Atlanta, GA 30348-5693

Wells Fargo Home Mortgage  
c/o BDFTE  
15000 Surveyor Blvd., Ste. 100  
Addison, TX 75001-4417

Kristin Beth Rizzuto Gomez  
8838 Toulouse  
San Antonio, TX 78240-3526

Manuel Fernando Gomez  
8838 Toulouse  
San Antonio, TX 78240-3526

Mary K Viegelahn  
Chapter 13 Trustee  
10500 Heritage Blvd Suite 201  
San Antonio, TX 78216-3631

William R. Davis Jr  
Langley & Banack, Inc  
745 E Mulberry Ave, Suite 900  
San Antonio, TX 78212-3141

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Dell  
P.O. Box 6403  
Carol Stream, IL 60197-6403

(d)Dell Financial Services, LLC  
Resurgent Capital Services  
PO Box 10390  
Greenville, SC 29603-0390

Ford Motor Credit Company  
Drawer 55-953  
P.O. Box 55000  
Detroit, MI 48255

Portfolio Recovery Associates, LLC  
POB 12914  
Norfolk, VA 23541

Shell  
Processing Center  
Des Moines, IA 50359-0001

End of Label Matrix  
Mailable recipients 50  
Bypassed recipients 0  
Total 50